

STATE OF DELAWARE, )  
 )  
 v. ) ID No. 2204002925  
 )  
 MARCUS JOHNSON, )  
 )  
 Defendant. )  
 )

Date Decided: March 7, 2023

Upon consideration of Defendant’s Motion for Modification of Sentence and/or Sentence Review (“Motion”),<sup>1</sup> Superior Court Criminal Rule 35(b), statutory and decisional law, and the record, **IT APPEARS THAT:**

(2) Defendant filed the instant Motion on January 12, 2023.<sup>4</sup> He requests that the Court “suspend the balance of Level [II] supervision and discharge probation.”<sup>5</sup> In support of his request, Defendant states that he has been serving

<sup>5</sup> *Id.*

probation with no issues; has paid off his fine; is still employed; has received a raise at work; has stable housing; and been incarcerated or under supervision since 2002.<sup>6</sup>

(3) Superior Court Criminal Rule 35(b) governs motions for modification of sentence.<sup>7</sup> The purpose of Rule 35(b) is to “provide a reasonable period for the Court to consider alteration of its sentencing judgments.”<sup>8</sup> Under Rule 35(b), the Court may “reduce the . . . term or conditions of partial confinement or probation, at any time.”<sup>9</sup> “The burden is upon the movant to establish cause to modify a lawfully imposed sentence.”<sup>10</sup> “Although the Rule does not set forth specific criteria which must be met before the Court may grant a Rule 35(b) motion, common sense dictates that the Court may modify a sentence if present circumstances indicate that the previously imposed sentence is no longer appropriate.”<sup>11</sup> The Court will not consider repetitive requests for reduction of sentence.”<sup>12</sup>

(4) This is Defendant’s first Motion, therefore it is not barred as repetitive, however the Court does not find that Defendant’s proffered reasons have established cause for modification of his sentence. The sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the

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<sup>6</sup> *Id.*

<sup>7</sup> Super. Ct. Crim. R. 35(b).

<sup>8</sup> *State v. Remedio*, 108 A.3d 326, 331 (Del. Super. 2014).

<sup>9</sup> Super. Ct. Crim. R. 35(b).

<sup>10</sup> *State v. Joseph*, 2018 WL 1895697, at \*1 (Del. Super. Apr. 11, 2018).

<sup>11</sup> *State v. Bailey*, 2017 WL 8787504, at \*1 (Del. Super. Oct. 3, 2017).

<sup>12</sup> *Id.*

Court that would warrant a reduction of modification of this sentence.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Defendant's  
Motion for Sentence Modification is **DENIED**.

/s/ Jan R. Jurden  
Jan R. Jurden, President Judge

Original to Prothonotary

cc: Erika R. Flaschner, DAG  
Marcus Johnson (SBI #00306874)